

PUBLIC REPORT OF EXAMINATION OF THE CLAIMS
PRACTICES OF THE
PHILADELPHIA INDEMNITY INSURANCE COMPANY
NAIC # 18058 CDI # 3576-6

AS OF MAY 31, 2001

STATE OF CALIFORNIA



DEPARTMENT OF INSURANCE

FIELD CLAIMS BUREAU

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CALIFORNIA DEPARTMENT OF INSURANCE

Consumer Services and Market Conduct Branch
Field Claims Bureau, 11th Floor
Ronald Reagan State Office Building
300 South Spring Street
Los Angeles, CA 90013



June 18, 2002

The Honorable Harry W. Low
Insurance Commissioner
State of California
45 Fremont Street
San Francisco, California 94105

Honorable Commissioner:

Pursuant to instructions, and under the authority granted under Part 2, Chapter 1, Article 4, Sections 730, 733, 736, and Article 6.5, Section 790.04 of the California Insurance Code; and Title 10, Chapter 5, Subchapter 7.5, Section 2695.3(a) of the California Code of Regulations, an examination was made of the claims practices and procedures in California of:

Philadelphia Indemnity Insurance Company

NAIC #18058

Hereinafter referred to as PIIC or the Company.

This report is made available for public inspection and is published on the California Department of Insurance web site (www.insurance.ca.gov) pursuant to California Insurance Code section 12938.

SCOPE OF THE EXAMINATION

The examination covered the claims handling practices of the aforementioned Company during the period June 1, 2000 through May 31, 2001. The examination was made to discover, in general, if these and other operating procedures of the Company conform with the contractual obligations in the policy forms, to provisions of the California Insurance Code (CIC), the California Code of Regulations (CCR), the California Vehicle Code (CVC) and case law. This report contains only alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al.

To accomplish the foregoing, the examination included:

1. A review of the guidelines, procedures, training plans and forms adopted by the Company for use in California including any documentation maintained by the Company in support of positions or interpretations of fair claims settlement practices.
2. A review of the application of such guidelines, procedures, and forms, by means of an examination of claims files and related records.
3. A review of consumer complaints received by the California Department of Insurance (CDI) in the most recent year prior to the start of the examination.

The examination was conducted at the Company's claims office in Bala Cynwyd, Pennsylvania.

The report is written in a "report by exception" format. The report does not present a comprehensive overview of the subject insurer's practices. The report contains only a summary of pertinent information about the lines of business examined and details of the non-compliant or problematic activities or results that were discovered during the course of the examination along with the insurer's proposals for correcting the deficiencies. When a violation is discovered that results in an underpayment to the claimant, the insurer corrects the underpayment and the additional amount paid is identified as a recovery in this report. All unacceptable or non-compliant activities may not have been discovered, however, and failure to identify, comment on or criticize activities does not constitute acceptance of such activities.

Any alleged violations identified in this report and any criticisms of practices have not undergone a formal administrative or judicial process.

CLAIM SAMPLE REVIEWED AND OVERVIEW OF FINDINGS

The examiners reviewed files drawn from the category of Closed Claims for the period June 1, 2000 through May 31, 2001, commonly referred to as the “review period”. The examiners reviewed 57 Philadelphia Indemnity Insurance Company Commercial Property and 153 Commercial Automobile (CA) claim files. The examiners cited 83 claims handling violations of the Fair Claims Settlement Practices Regulations and/or California Insurance Code Section 790.03 within the scope of this report.

Philadelphia Indemnity Insurance Company			
CATEGORY	CLAIMS FOR REVIEW PERIOD	REVIEWED	CITATIONS
Commercial Property	340	57	15
CA Collision	242	53	33
CA Comprehensive	42	42	13
CA Property Damage	385	58	22
TOTALS	1009	210	83

TABLE OF TOTAL CITATIONS		
Citation	Description	Philadelphia Indemnity Insurance Company
CCR §2695.3(a)	The Company's claim file failed to contain all documents, notes, and work papers which pertain to the claim.	23
CCR §2695.4(a)	The Company failed to disclose all benefits, coverage, time limits or other provisions of the insurance policy.	14
CCR §2695.3(b)(3)	The Company failed to maintain hard copy claim files or maintain claim files that are accessible, legible and capable of duplication to hard copy for five years.	13
CCR §2695.8(i)	The Company failed to provide written notification to a first party claimant as to whether the insurer intends to pursue subrogation.	7
CCR §2695.7(b)(3)	The Company failed to include a statement in their claim denial that, if the claimant believes the claim has been wrongfully denied or rejected, he or she may have the matter reviewed by the California Department of Insurance.	6
CCR §2695.7(h)	Upon acceptance of the claim the Company failed to tender payment within thirty calendar days.	5
CCR §2695.8(f)	The Company failed to supply the claimant with a copy of the estimate upon which the settlement is based.	2
CCR §2695.7(c)(1)	The Company failed to provide written notice of the need for additional time every thirty calendar days.	2
CCR §2695.8(k)	The Company failed to document the basis of betterment, depreciation, or salvage. The basis for any adjustment shall be fully explained to the claimant in writing.	2
CCR §2695.3(b)(2)	The Company failed to record in the file the date the Company received, date(s) the Company processed and date the Company transmitted or mailed every relevant document in the file.	2
CCR §2695.7(g)	The Company attempted to settle a claim by making a settlement offer that was unreasonably low.	2
CCR §2695.6(b)(4)	The Company failed to maintain a copy of the certification required by CCR §2695.6(b) (1), (2) or (3) at the principal place of business.	2
CCR §2695.7(b)	The Company failed, upon receiving proof of claim, to accept or deny the claim within forty calendar days.	1
CCR §2695.7(f)	The Company failed to provide written notice of any statute of limitation or other time period requirement not less than sixty days prior to the expiration date.	1
CCR §2695.8(b)(1)	The Company failed to explain in writing for the claimant the basis of the fully itemized cost of the comparable automobile.	1
Total Citations		83

SUMMARY OF CRITICISMS, INSURER COMPLIANCE ACTIONS AND TOTAL RECOVERIES

The following is a brief summary of the criticisms that were developed during the course of this examination related to the violations alleged in this report. This report contains only alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al. In response to each criticism, the Company is required to identify remedial or corrective action that has been or will be taken to correct the deficiency. Regardless of the remedial action taken or proposed by the Company, it is the Company's obligation to ensure that compliance is achieved. The total money recovered was \$229.45 within the scope of this report.

1. The Company failed to properly document claim files. In 23 instances, the Company's files failed to contain all documents, notes and work papers. In most of those instances the Company failed to document that the vehicle owner had been supplied with a copy of the estimate upon which the settlement was based. In other instances the Company either failed to clearly document that the Company disclosed all benefits, coverage, time limits or other provisions of the insurance policy, or failed to document that the Company had complied with other regulations. The Department alleges these acts are in violation of CCR §2695.3(a).

Summary of Company Response: The Company acknowledges that the files did not always clearly reflect the activity of their examiners on the claims. As a result of this claim examination, the insurer personnel were instructed to be clearer in their file notes to document that estimates have been supplied to the vehicle owners and to document compliance with other regulations. Additionally, the Company states that their new claims system will allow for clearer typed notes supporting these communications.

2. The Company failed to disclose all policy provisions. In 14 instances, the Company failed to disclose all benefits, coverage, time limits or other provisions of the insurance policy. The Department alleges these acts are in violation of CCR §2695.4(a).

Summary of Company Response: The Company acknowledges that the files did not always clearly reflect that the Company had disclosed all benefits, coverage, time limits or other provisions of the insurance policy. The Company states "it is a common practice in the initial contact with an insured to review the coverages available for a loss." As a result of this claim examination, the insurer personnel were trained to review the available coverages, policy provisions and benefits with the insured. Additionally, a new Operating System has been installed which will allow for clearer typed notes supporting these communications.

3. The Company failed to maintain hard copy claim files. In 13 instances, the Company failed to maintain hard copy files or claim files that are accessible, legible and capable of duplication to hard copy for five years. The Department alleges these acts are in violation of CCR §2695.3(b)(3).

Summary of Company Response: The Company acknowledges that the files were not readily accessible for the Market Conduct examiners. As a result of this claim examination, the Company anticipates that they will be installing a file tracker/bar code system which will assist them in locating their files. Additionally, the Company states that the installation of their new claims system with its electronic notes will reduce the number of locations where a file might be located.

4. The Company failed to provide written notification to a first party claimant as to whether the insurer intends to pursue subrogation. In seven instances, the Company failed to provide written notification to a first party claimant as to whether the insurer intends to pursue subrogation of the claim. The Department alleges these acts are in violation of CCR §2695.8(i).

Summary of Company Response: The Company acknowledges that three of the seven files were in violation of this regulation. The Company disagrees with the examiner's criticism in the other four files. In those four files it is the Company's position that the verbal conversations of its examiners with their insureds regarding the Company's intentions to pursue subrogation negate the "value of a written confirmation of 'intent...'", The Company has, however, indicated that "the subrogation staff will be instructed to copy their subro correspondence to the insureds to ensure evidence exists in the file to support the communication." Additionally, the Company states they will ensure that their claims handlers comply with their requirement that a carbon copy of the first subrogation letter is sent to the insured.

5. The Company failed to advise the claimant that he or she may have the claim denial reviewed by the California Department of Insurance. In six instances, the Company failed to include a statement in their claim denial that, if the claimant believes the claim has been wrongfully denied or rejected, he or she may have the matter reviewed by the California Department of Insurance. The Department alleges these acts are in violation of CCR §2695.7(b)(3).

Summary of Company Response: The Company acknowledges these errors. The Company has in place a procedure in which all California coverage denials are to include the required language of CCR §2695.7(b)(3). Additionally, the necessary denial language is a common discussion with the claims staff. To ensure compliance with this regulation, the Senior Vice President of Claims is the only authorized Company representative (other than a Vice President in his absence) who may sign California denial letters

6. Upon acceptance of the claim the Company failed to tender payment within thirty calendar days. In five instances, upon acceptance of the claim, the Company failed to tender payment within thirty calendar days. The Department alleges these acts are in violation of CCR §2695.7(h).

Summary of Company Response: The Company acknowledges there were instances in which payments were not tendered within 30 calendar days. The Company states that they will remind their examiners to pursue every objective to settle losses timely. Additionally, files will be reviewed for compliance with all California codes and regulations on a regular basis.

7. The Company failed to supply the claimant with a copy of the estimate upon which the settlement is based. In two instances, the Company failed to supply the claimant with a copy of the estimate upon which the settlement is based. The Department alleges these acts are in violation of CCR §2695.8(f).

Summary of Company Response: The Company disagrees with these allegations. In both instances, PIIC states that their insured instructed them to supply copies of the estimates to the insured's shop of choice.

This is an unresolved issue and may result in further administrative action.

8. The Company failed to provide written notice of the need for additional time every thirty calendar days. In two instances, the Company failed to provide written notice of the need for additional time every thirty calendar days. The Department alleges these acts are in violation of CCR §2695.7(c)(1).

Summary of Company Response: The Company acknowledges that there were instances in which written notice of the need for additional time was not provided every thirty days. The Company states that these were unusual occurrences since they had a tracking/diary system in place at the time to avoid these errors. Additionally, their newly converted claims system has been designed with automatic letter triggers to prevent an examiner from missing notification deadlines.

9. The Company failed to document the basis of betterment, depreciation, or salvage. The basis for any adjustment shall be fully explained to the claimant in writing. In two instances, the Company failed to document the basis of betterment, depreciation, or salvage. The basis for any adjustment shall be fully explained to the claimant in writing. The Department alleges these acts are in violation of CCR §2695.8(k)

Summary of Company Response: The Company acknowledges that there were instances in which the files do not clearly document that the claimant was supplied with a written explanation of the basis for the adjustments made to the settlements. The Company states that it is their procedure to supply a copy of the vendor's evaluation to the claimants. The Company staff has been reminded of this procedure.

10. The Company failed to record claim data in the file. In two instances, the Company failed to record the date the Company received, date(s) the Company processed and date the Company transmitted or mailed every relevant document in the file. The Department alleges these acts are in violation of CCR §2695.3(b)(2).

Summary of Company Response: The Company acknowledges that there were instances in which the Company failed to record the date the company received relevant documents. The Company has reiterated to their mail room staff the importance of ensuring compliance with this regulation.

11. The Company attempted to settle a claim by making a settlement offer that was unreasonably low. In two instances, the Company attempted to settle a claim by making a settlement offer that was unreasonably low. The Department alleges these acts are in violation of CCR §2695.7(g).

Summary of Company Response: In one instance, the Company acknowledges that they underpaid the claim. As a result of this claim examination, the Company agreed to make an additional payment to the claimant for the underpaid amount. The Company disagrees with the examiner's citation in the other instance.

This is an unresolved issue and may result in further administrative action.

12. The Company failed to maintain a copy of the certification required by CCR §2695.6(b) (1), (2) or (3) at the principal place of business. In two instances, the Company failed to maintain a copy of the certification required by CCR §2695.6 (b) (1), (2) or (3) at the principal place of business. The Department alleges this act is a violation of CCR §2695.6(b)(4).

Summary of Company Response: The Company states that they do have the certifications required by CCR §2695.6 (b) (1), (2) or (3) for the years 2000 and 2001, but these have not been supplied to the Department to date.

This is an unresolved issue and may result in further administrative action.

13. The Company failed to accept or deny the claim within forty calendar days. In one instance, the Company failed, upon receiving proof of claim, to accept or deny the claim within forty calendar days. The Department alleges this act is in violation of CCR §2695.7(b).

Summary of Company Response: The Company acknowledges that they did not accept or deny the claim within forty calendar days of receipt of proof of claim. The Company states that their new operating system will allow for diary of files at multiple staff levels within the department. Additionally, this new operating system has electronic notes that will allow management to run reports off of both the diary system and the activity logs. Time settlement form letters will be generated by

the new system, which will force additional review of files. Management will also be flagged on repeat time lettered files.

14. The Company failed to provide written notice of any statute of limitation sixty days prior to the expiration date. In one instance, the Company failed to provide written notice of any statute of limitation or other time period requirement not less than sixty days prior to the expiration date. The Department alleges this act is in violation of CCR §2695.7(f).

Summary of Company Response: The Company acknowledges that they did not provide written notice of the statute of limitation sixty days prior to the expiration date. The Company has reviewed this regulation with their claims staff to ensure future compliance.

15. The Company failed to explain in writing for the claimant the basis of the fully itemized cost of the comparable automobile. In one instance, the Company failed to explain in writing for the claimant the basis of the fully itemized cost of the comparable automobile. The Department alleges this act is in violation of CCR §2695.8(b)(1).

Summary of Company Response: The Company acknowledges this error. As a result of this claim examination, the Company indicates that they will instruct their personnel to send written explanations of total loss settlements. The Company examiners will also be instructed to be clearer in their file notes and to supply insureds with copies of materials which explain the basis of the fully itemized cost of the comparable automobile.